IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6548 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MEHMOOD ABDUL HAMID KHATRI

Versus

COMMISSIONER OF SALES TAX

Appearance:

1. Special Civil Application No. 6548 of 2001

MR AR MAJMUDAR for Petitioner No. 1

MR IM PANDYA, AGP, for Respondents No. 1-3

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 27/12/2001

ORAL JUDGEMENT

Rule. Learned AGP Shri I.M. Pandya waives service of rule for the respondents. At the request of the learned advocates, the petition is finally heard

today.

The petitioner, who is working in the cadre of Driver, has challenged the order of transfer whereby the petitioner has been transferred from Surat to Ankleshwar. Learned advocate Shri Majmudar appearing for the petitioner has submitted that the petitioner, as a disciplined employee, has already resumed his duties at Ankleshwar. He has also drawn my attention to the fact that on 24.12.2001 when this petition was heard in presence of Shri V.D. Patel, Dy. Commissioner, Sales Tax, Division 5, the said officer had made a statement that there was no vacancy in the cadre of driver in district Surat, but as and when there would be any vacancy in the cadre of driver in district Surat, the petitioner would be retransferred to district Surat.

It has been submitted by learned advocate Shri Majmudar appearing for the petitoner that as per his information, in fact, there is a vacancy in the cadre of driver in district Surat and, therefore, the petitioner should be retransferred to Surat as soon as possible as the petitioner is working as a driver and normally drivers are not transferred out of the district in which they are initially appointed.

In view of the statement made by Shri V.D. Patel, Dy. Commissioner, Sales Tax (Divn. 5), it is directed that as and when there would be any vacancy in the cadre of driver in district Surat, the petitioner shall be retransferred and if in fact there is any vacancy at present as stated by learned advocate Shri Majmudar appearing for the petitioner, the petitioner should be immediately retransferred to Surat so that the vacancy in the cadre of driver which is in existence as stated by learned advocate Shri Majmudar can be filled up.

In view of the above order, the petition is allowed. Rule is made absolute to the above extent with no order as to costs.

(A.R. Dave, J.)

(hn)